

# MINORITY BUSINESS PLAN MINIMUM COMPLIANCE REQUIREMENTS:

The **annual verifiable goals** for the City of Asheville and Buncombe County for minority business participation in construction projects (other provisions apply depending on project type & funding), procurement projects, professional and other service projects are as follows:

<u>CONSTRUCTION</u>	<u>COUNTY</u>	<u>CITY</u>
African Americans		3%
Hispanic, Asian & Native Americans	12 % Overall	1%
Women	for all minorities	8%
<u>PROCUREMENT</u>		
African Americans	10 % Overall	5%
Hispanic, Asian & Native Americans	for all minorities	2%
Women		18%
<u>PROFESSIONAL</u>		
African Americans	10 % Overall	7%
Hispanic, Asian & Native Americans	for all minorities	7%
Women		37%
<u>OTHER SERVICES</u>		
African Americans	10 % Overall	10%
Hispanic, Asian & Native Americans	for all minorities	2%
Women		18%

Effective January 1, 2000, the Minority Business Plan changed to include a 72-hour delay for minimum compliance. The Bidder must provide, with the bid, documented proof in the form of MB (Minority Business) Form 1 (MB Utilization Commitment) or MB Form 2 (Letter of Intent To Perform Work Without Subcontracting) that goals have been met or exceeded. Other forms must be submitted, as noted in the following statements, with the MB Form 1 either at the time the bid is due or 72 business hours after the bid opening by the lowest responsible bidder or bidders who wish to be considered.

**As of January 2002, there are separate forms for building construction with the approval of Senate Bill 914. It provides for different criteria in reporting minority participation and good faith efforts at the local government level. Those forms will be used for building construction projects only.**

The following is a description of the Minority Business Forms for all other bidding and what must be done to submit a responsible bid.

- **Good Faith Checklist** – This checklist provides ways in which the general contractor can actively work to increase participation by minority and women owned firms. Please answer all questions honestly and provide supporting documentation. Failure to provide this evidence may result in rejection of the bid and award to the next lowest responsible bidder. **This form is due 72-hours following the bid opening along with MB Form 1A and any supporting documentation must accompany this form if the bidder is subcontracting work on the project.**
- **MB Form 1 (MB Utilization Commitment)** – This form states the amount of minority business participation on the named project. The bidder must turn this form in at the time of the bid if the firm will be subcontracting whether or not minority and woman owned firms are used. The bidder can turn in the remaining “good faith effort” documentation within 72 hours. **The Good Faith Checklist, MB Form 1A and any supporting documentation must accompany this form within 72 hours.**
- **MB Form 1A (MB Unavailability-Subcontracting, Supplies And/Or Services)** – On this form the general contractors will need to list all of the minority and women owned firms contacted for a project bid that were unavailable to bid. This form must include any documentation of good faith effort made to meet the goals and provide MB’s opportunities to participate. **The Good Faith Checklist and any documentation must accompany this form within 72-hours.**

- **MB Form 2 (Letter Of Intent To Perform Work Without Subcontracting)** – This form provides that the Bidder does not customarily subcontract work on this type of project. **This form does not need to be accompanied by any other MB Form and must be turned in with the bid.**

### **TYPES OF ADDITIONAL DOCUMENTATION (If MB subcontract goals are not achieved):**

Documentation of Bidder's best faith efforts to meet the goals set forth in these provisions must be submitted with the bid or within 72 hours of the bid opening. This documentation must include but not limited to the following evidence:

- a. Copies of solicitations for quotes to MB firms from the Directory Certified of Minority Businesses provided by the **Office of Minority Affairs**. Each solicitation must contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received by the Prime Bidder.
- b. Copies of quotes or responses from each firm responding to the solicitation.
- c. Documentation of any contacts, correspondence or conversation with MB firms made in an attempt to meet the goals.
- d. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- e. Letter detailing reason for rejection of minority business due to lack of qualification.

***Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible bidder.*** The City of Asheville and Buncombe County reserve the right to waive any informality if they can be resolved prior to award of the contract and it is in their best interest to do so and award the contract. If the successful contractor fails to make or maintain best faith efforts to meet or maintain goals for minority business participation, there may be a penalty of 5% of the contract price imposed.

### **SUBCONTRACTING PAYMENT REQUIREMENTS:**

North Carolina General Statute 143-134.1 states that the percentage of retainage on payments made by the prime contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the City of Asheville and Buncombe County to the prime contractor. Failure to comply with this provision shall be considered a breach of the contract, and contract may be terminated in accordance with the termination provisions of the contract.

The Contractor must provide to the City of Asheville and Buncombe County via the Office of Minority Affairs an itemized statement of payments made to each MB subcontractor with each request for payment and before final payment. **The Office of Minority Affairs will request this information on a quarterly basis in order to report payment information by the successful bidder.** The form is MB Form 4, which is the documentation of contract payments by general contractors to minority and women firms. The Office of Minority Affairs monitors projects by the City and County to ensure that all parties are meeting their obligations. **Please return this information to the Office of Minority Affairs, 28 Valley Street, Asheville, NC 28801. If you have questions, please contact us at (828) 250-4120.**

### **PROGRAM COMPLIANCE REQUIREMENTS:**

All written statements, certifications or intentions made by the Bidder shall become a part of the agreement between the Contractor, the City of Asheville or Buncombe County for performance of this contract. Failure to comply with any of these statements, certifications or intentions or with the MB Plan shall constitute a breach of the contract. A finding by the City of Asheville or Buncombe County that any information submitted either prior to award of the contract or during performance of the contract is inaccurate, false or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City of Asheville or Buncombe County whether to terminate the contract for breach. In determining whether a contractor has made best faith efforts, the City of Asheville and Buncombe County will evaluate all efforts made by the Contractor and will determine compliance in regards to quantity intensity, and results of these efforts. Both of these governmental bodies may take into account those factors listed in the MB Plan.

# CHECKLIST FOR REVIEW OF GOOD FAITH EFFORTS

(This form and MB Form 1A due within 72 hours of bid opening with good faith efforts documentation)

1. Have you attended the pre-bid conference(s) scheduled?  
( ) Yes ( ) No (Meeting attendance is documented by the local government agency)
2. Have you advertised at least seven (7) days in a general circulation, trade association, construction or minority-focused media **within the contracting area** regarding subcontracting opportunities with your firm prior to the bid opening date?  
( ) Yes ( ) No (Attach documentation)
3. Have you utilized the services of the City and County's Minority Affairs Office, available minority community organizations, minority contractors' group, local minority business assistance offices and other local organizations that provide assistance in the recruitment and placement of minorities and women to solicit bids for this project? Access to the website for the most current information in the Directory of Certified Businesses for each local government at [www.buncombecounty.org/governing/depts/minority](http://www.buncombecounty.org/governing/depts/minority) or [www.ashevillenc.gov/finance/minority.htm](http://www.ashevillenc.gov/finance/minority.htm)  
( ) Yes ( ) No (Attach documentation)
4. Have you provided interested minority businesses (MBs) **with adequate and equal access** to information about the plans, specifications and requirements of the contract, insurance and licenses?  
( ) Yes ( ) No
5. Did you provide written notice to all appropriate certified MBs within the identified subcontracting / supplier / service categories that their interest in the contract was being solicited and in sufficient time to allow these MBs to participate? Additionally, did the solicitation contain a description and location of the project, the work for which the subcontractors' bids are being solicited, date, time and location where the subcontractors' bids are to be submitted, locations where bidding documents could be reviewed?  
( ) Yes ( ) No
6. Have you selected portions of the work to be performed by MBs in order to increase the likelihood of meeting MB goals including breaking it into economically feasible units where appropriate?  
( ) Yes ( ) No
7. Have you designated someone in your firm to be the single contact for MBs that may have questions, etc.?  
( ) Yes ( ) No (Please indicate name of person and title)  
  
Name: \_\_\_\_\_ Title: \_\_\_\_\_
8. Have you worked with the Minority Affairs Office in developing and administering areas of technical assistance for MBs, i.e. bonding, lines of credit or insurance?  
( ) Yes ( ) No
9. Did you follow up initial solicitations of interest by contacting MBs to determine with certainty whether they are interested in bidding? ( ) Yes ( ) No
10. Did you negotiate in good faith with interested MBs, not rejecting MBs as unqualified without sound reasons based on a thorough investigation of their capabilities?  
( ) Yes ( ) No

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Signature

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Title

# MB FORM 1

## MB UTILIZATION COMMITMENT

(Must be submitted with bid if subcontracting – The Good Faith Efforts Checklist, MB Form 1A & documentation are due within 72 hours of bid opening)

We, \_\_\_\_\_, do certify that on the

\_\_\_\_\_  
(Project Name)

\_\_\_\_\_  
(Project Number)

\_\_\_\_\_  
(Dollar Amount of Bid)

we will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with certified minority business (MB) enterprises. MBs will be employed as vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. If the Bidder intends to subcontract, this form must be completed and submitted with the bid and documentation of good faith efforts regardless of the amount or lack of participation attained.

Name and Phone Number of Firm	Indicate MB Category	Description of Work	Dollar Value
_____			
_____			
_____			
_____			
_____			
_____			
_____			
_____			
_____			

The undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that s/he has read the terms of this commitment and is authorized to bind the Bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Bidder/Company: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

**MB FORM 1A**  
**CERTIFICATE OF MB UNAVAILABILITY**  
**SUBCONTRACTING / SUPPLIES / SERVICES**

(This form is due 72-hours following the bid opening if your company is subcontracting on the project)

**Name of Contractor:** \_\_\_\_\_ **Project:** \_\_\_\_\_

<b>Work//Service/Goods Needed</b>	<b>Name of MB &amp; Phone</b>	<b>Date of Contact</b>	<b>Contact Person</b>	<b>Reason for Unavailability</b>
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Pursuant to the Asheville – Buncombe “Minority Business Plan Minimum Compliance Requirements,” the undersigned certifies that the above Minority Business (es) were contacted in good faith and that said MB(s) were unable to submit a bid for reasons indicated.

**Date:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**MB FORM 2**  
**STATEMENT OF INTENT TO PERFORM WORK WITHOUT SUBCONTRACTING**  
**(No Other MB Forms Need to Accompany this form and it is due @ bid opening)**

We, \_\_\_\_\_, hereby certify that it is our intent to  
perform **100% of the work required** for the \_\_\_\_\_  
(Name of Project)  
contract.

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own work forces; and

The bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that s/he has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: \_\_\_\_\_ Name of Bidder/Company: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_